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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,408	02/14/2005	Peter Geskes	016906-0374	4673

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FOLEY AND LARDNER LLP
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WASHINGTON, DC 20007

EXAMINER

LEO, LEONARD R

ART UNIT	PAPER NUMBER
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3744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/524,408

Applicant(s)

GESKES ET AL.

Examiner

Leonard R. Leo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 10-12, 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9, 13-17, 20-23 and 25 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 19, 2007 has been entered.

Claims 1 and 3-25 are pending, and claims 4-7 and 18-19 remain withdrawn from further consideration. Applicant is reminded that the withdrawn claims must remain labeled as "withdrawn," even when amended. Upon further review, claims 8 and 10-12 are withdrawn from consideration. Claims 8 and 10-11 read on nonelected Figures 2 and 8A having recess 14. Claim 12 reads on nonelected Figure 8A having cutout 24. Elected Figure 9 does not disclose these claim limitations.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The specification lacks an adequate written description of the invention. There is no basis for “openings for the flat tubes, wherein *the openings are the only openings* in the collection manifold.” As disclosed in Figures 9-10, inlet 28 and outlet 30 are “openings” in the manifold 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 9, 16-17, 20-21, 22 as understood and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kado. Figure 5 or 7 of Kado discloses the flat outer contour of tube 4 is “matched” to the internal contour 9c of the collection manifold 2. Regarding claims 20-21, Kado (Technical Field) discloses the heat exchanger employed as a condenser of an air conditioner for a vehicle.

Claims 1, 3, 9, 16-17, 20-21, 22 as understood and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe. Regarding claims 20-21, Watanabe (paragraph 13) discloses the heat exchanger is employed in an automobile air conditioner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 13-15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kado or Watanabe in view of Kuroyanagi et al.

Nakada et al discloses all the claimed limitations except a longitudinal partition.

Kuroyanagi et al discloses a heat exchanger comprising a number of flat tubes 42, 44 connected to collection manifold regions 8, 10-11, 13 divided by longitudinal partition 16 for the purpose of meeting plumbing requirements, i.e. the inlet and outlet of the heat exchanger are located on the same manifold side.

Since Kado or Watanabe and Kuroyanagi et al are both from the same field of endeavor and/or analogous art, the purpose disclosed by Kuroyanagi et al would have been recognized in the pertinent art of Kado or Watanabe.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Kado or Watanabe a longitudinal partition in the collection manifold for the purpose of meeting plumbing requirements as recognized by Kuroyanagi et al.

Regarding claims 14 and 23, Kuroyanagi et al discloses single tube having a slot in the end (Figure 18).

Regarding claim 15, Kuroyanagi et al discloses through-openings 18 in partition 16.

Allowable Subject Matter

Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

The rejection of claims 8 and 10 under 35 U.S.C. 112, second paragraph, is withdrawn in view of the claim amendment.

The rejections in view of Nakada et al are withdrawn in view of the claim amendments.

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

The rejection in view of Kuroyanagi et al is deemed correct for teaching a slot in the tube end for the purpose of accommodating the longitudinal partition. Kuroyanagi et al is not relied upon to teach a tube having an outer contour matching the inner contour of the collection manifold.

No further comments are deemed necessary at this time.

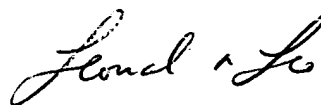
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard R. Leo whose telephone number is (571) 272-4916. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LEONARD R. LEO
PRIMARY EXAMINER
ART UNIT 3744

March 4, 2007